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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/700,139 Filing Date: December 15, 2000 Appellant(s): BACHMANN ET AL.

Scott E. Kamholz For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 16 November 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Grouping of Claims

The rejection of claims 1-4, 6, 8, and 9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(7) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Azima et al. (US Patent 6,003,766).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima et al. in view of Azima et al. (US Patent 6,332,029).

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

6,003,766 Azima et al. 12-1999

6,332,029 Azima et al. 12-2001

Webster's New Collegiate Dictionary, G. & C.

Merriam Co., 1977

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Azima et al ("Azima") (US Patent 6,003,766).

Regarding Claims 1, 3, 8, and 9, Azima discloses a panel loudspeaker which is comprised of at least one sound radiating panel (2) having a core layer (22) and at least one cover layer connected with the core layer (21), a periphery which is formed by a frame (1) that surrounds the at least one sound radiating panel with a later gap (between 20 and 20 of fig. 2a), and at least one connecting element (3) that connects the at least one sound radiating panel with the periphery (20) wherein that at least one connecting element is under mechanical tension when connected with the periphery (col. 4, lines 24 to 36), and wherein regions of the at least one cover layer that are connected with the core layer are also under mechanical tension (inherent that wherein joints 20 are under tension that cover layer 21 is also under tension).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

Regarding claim 6, the applicant has claimed that the sound radiating panel is a bass panel adapted to reproduce low-frequency sound. Even though Azima does not explicitly disclose reproducing low frequency sound, it would have been obvious to set the panel speaker to reproduce low frequency as claimed because it would have been a designer's choice to set a system which reproduce a certain range of frequency in an audio signals.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima as applied to claim 1 above in view of Azima ("Azima '029").

Regarding Claim 2, Azima discloses a loudspeaker as stated apropos of claim 1 including the at least one connecting element is formed by the at least one cover layer (Azima discloses that skins, i.e. cover layer, are made of plastics, Col. 3, lines 22-28, and further discloses connecting element 3 is made of plastics, Col. 3, lines 18-19). Azima does not disclose the cover layers of the respective sound radiating panel extends to the periphery. Azima '029 discloses a loudspeaker (Fig. 28) with a panel (22), periphery (101), and outer skin connecting core and extending to the periphery (101), Col. 38, lines 57-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the cover layer to the periphery to produce an audio output of a visual display unit as taught by Azima '029.

Regarding Claim 4, Azima discloses a loudspeaker as stated apropos of claim 1 above but does not disclose wherein the periphery is formed by at least one additional panel. Azima '029 discloses a panel loudspeaker (Fig. 18, references 3, 4, 9, and 82) where the periphery (82) is formed by at least one additional panel (2). Azima '029 discloses that the two panels are used to drive different frequency outputs so the loudspeaker can encompass the whole acoustic spectrum (Col. 34, lines 51-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the periphery is formed by at least one additional panel to produce different

frequency range outputs and encompass the whole acoustic spectrum as taught by Azima '029.

(10) Response to Argument

On page 4, line 25 through page 6, line 3, the appellants have argued that the office has adopted an unreasonably broad interpretation of the term "tension". The appellants' argument is not persuasive as "tension" is defined in Webster's New Collegiate Dictionary (G. & C. Merriam Co., 1977) as: "either of two balancing forces causing or tending to cause extension". As previously stated on page 3, lines 12-14 of the Final Rejection, as the diaphragm (panel) vibrates, it is inherent that the suspension 3 is under mechanical tension. That is, as the panel vibrates, it will inherently produce a force causing or tending to cause extension in at least a part of skin 21, core 22 and suspension 3. Note the term "mechanical tension" is broad as the claim does not put a limitation on what means or conditions produces such a tension.

For the above reasons, it is believed that the rejections should be sustained.

5

This examiner's answer contains a new ground of rejection set forth in section (10) above. Accordingly, appellant must within TWO MONTHS from the date of this answer exercise one of the following two options to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new ground of rejection:

- (1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.
- (2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Justin Michalski

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:

Sinh Tran

SINHTRAN
SUPERVISORY PATENT EXAMINER

SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600

MI YEARS Xu Mei

PRIMARY EXAMINER

FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110

Websters New Collegiate Dictionary

A Mondan-Uksta

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Tł

Dic

ten-rec \ten-rek\ n [F, fr. Malagasy tandroka]: any of numerous small often spiny insectivorous mammals (family Tenrecidae) of Madagascar tense \ten(t)s\ n [ME tens time, tense, fr. MF, fr. L tempus—more at TEMPORAL] 1: a distinction of form in a verb to express distinctions of time or duration of the action or state it denotes 2 a: a set of inflectional forms of a verb that express distinctions of time b: a particular inflectional form of a verb expressing a specific time distinction

Tense adj tense-r; tense-est [L tensus, fr. pp. of tendere to stretch

tense vb tensed; tensing vi : to make tense ~ vi : to become

**Tense vb tensed; tens-ing vi: to make tense ~ vi: to become tense tens

ten-sion-er \-(2-)nor\ n
ten-si-ty \ten(1)-sat-\(\circ\), pl-ties: the quality or state of being
tense: TENSENESS
ten-sive \ten(1)-siv\ adj: of, relating to, or causing tension
ten-sor\ten(1)-siv\ adj: n [NL, fr. L tensus, pp.] 1: a
muscle that stretches a part 2: a generalized vector with more
than three components each of which is a function of the
coordinates of an arbitrary point in space of an appropriate number
of dimensions

than three components each of which is a full that the coordinates of an arbitrary point in space of an appropriate number of dimensions
ten-atrike \ten-strik\ n 1: a strike in tenpins 2: a highly successful stroke or achievement
'tent\ n [ME tenle, fr. OF, fr. L tenta, fcm. of tentus, pp. of tendere to stretch—more at Thin) 1: a collapsible shelter of canvas or other material stretched and sustained by poles and used for camping outdoors or as a temporary building 2: DWELLING 3 a: something that resembles a tent or that serves as a shelter; esp: a canopy or enclosure placed over the head and shoulders to retain vapors or oxygen during medical administration b: the web of a tent caterpillar—tent-less \ten-less\ tent-less\ tent of the time being: LODGE 2: to live in a tent ~ w 1: to cover with or as if with a tent 2: to lodge in tents 3 tent w 1: to cover with or as if with a tent 2: to lodge in tents 3 tent the fr. attender to attend) chiefly Scot: to attend to ten-ta-cle \tenti-i-kol\ n [NL tentaculum fr. L tentare to feel, touch—more at TEMPT] 1: any of various elongate flexible usu, tactile or prehensile processes borne by animals chiefly on the head or about the mouth 2 a: something that functions like a tentacle in grasping or feeling out b: a sensitive hair or emergence on a plant (as the sundew)—tent-a-ted\ \kald \tend{adj} [NL tentaculum] 1: of, relating to, or resembling tentacles 2: equipped with tentacles tent-a-ge \tent-ii\) n: a collection of tents: tent equipment ten-ta-tive \tent-a-tiv\ adj [ML tentativus, fr. L tentatus, pp. of developed <~ plans> 2: HESITANT.UNCERTAIN & a ~ smile>—tentative n — ten-ta-tive-ly adv — ten-ta-tive-less n tent-a-tive-less n = tent-a-tiv

like a tent ten-ten' n [ME teyntur, tentowre] 1: a frame or endless track with hooks or clips along two sides that is used for drying and stretching cloth 2 archaic: TENTERHOOK. Ten-ten-hook 'ten-ten-hook' n: a sharp hooked nail used esp. for fastening cloth on a tenter — on tenterhooks: in a state of uneasiness, strain, or suspense tenth-rate 'ten-thrail adj: of the lowest character or quality tent mak-er \ten-thrail adj: one that makes tents tent attent n: a short stitch slanting to the right that is used in embroidery and canvas work to form even lines of solid background tent valve tent strents. embroidery and canvas work to form even lines of solid oxegodine tenty also tentie \(^1\tent_0 \adj \end{adj} \end{

ten-u-ous \ten-y-wos\ adj [L tenuis thin slight tenuos more at ITHN] 1: not dense: RARE <a ~ fluid > 2s not to see the substance of standard standa THIN ant dense — ten-u-ous-ly adv — ten-u-ous-ne ten-u-ous-ne ten-urous-ne ten-urou

1202

mound itself

mound itself tee-na-na-catl \ta-ō-nan->-kat-\ n [Nahuatl, fr nanacatl mushroom]: any of several New Worl (Psilocybe and related genera of the family Aganca BOO! O

sources of hallucinogens
te-o-sin-te \u00e4a-6-sint-\u00e4\u00e4n form | MexSp. fr. Nahuati \u00e4eecenii god + centii ear of corn]: a large annual fodder grass (\u00e4 mexicana) of Mexico and Central America closely (\u00e4e\u00e4n)

god + centil ear of corn! a late annual other practices of the panel o

tapan is gives out lieas. The state of the s

ness n
TEPP \text{\text{te}} \text{-pe} \text{-pe} \n [tetraethyl pyrophosphate] : a mobile hygroscopic
corrosive liquid organophosphate
CH_nOP). P that is a powerful anticholinesterase and is used as an insecticide and parasympathom

metic agent te-qui-la \ta-\rho [Sp. fr. Tequila, district of Mexico] to a Mexico | the qui-la \ta-\rho [Sp. fr. Tequila, district of Mexico] to a Mexican century plant (Agave tequilana) much cultivated as a source of mescal 2: a Mexican liquor made by redistilling mescal ter abbr 1 terrace 2 territory ter-comb form [L. fr. ter. akin to Gk & Ski tris three times determined three — more at THREE]: three times: threefold: three\text{\text{tris}}

centenary>
tera-\ter-\comb form [ISV, fr. Gk teras monster — more at
TERATOLOGY]: TRILLION < teraton> < terahert>
te-rai \t-'ri\ n [Tarai, lowland belt of India]: a wide-brimmed
double felt sun hat worn esp. in subtropical regions
ter-aph \ter-a\, n, pl ter-a-phim \ter-a-fim\ [Heb teraphim \ter-aphim \ter-

god

te-rato-gen \ta-'rat-a-jan\ n: a teratogenic agent
ter-a-to-gen-e-sis \ter-a-ta-'jen-a-sas\ n [NL. fr. Gk terai-teras
monster + genesis]: production of monstrous growths or fetuses
ter-a-to-gen-ic\'-jen-ik\ adj: tending to cause developmental
malformations and monstrosities — ter-a-to-ge-nic-i-ty\-ja-nis-

iti-bene 'ter-2-ben' n [F térébène, fr. imixture of terpenes from oil of turpenti imixture of terpenes from oil of turpenti imbeble (12-te-bik, "rēb-\ adj [L terebin imbeble (12-te-bik, "rēb-\ adj [L terebin imbeble (12-te-bin) of the sum of oil of turpenti imbeblinth 'ter-2-bin(t)th' n [ME terebynt, imbeblinthins — more at TURFENTINE]: a (Pisacia terebinthus) of the sumac family yield imbeblinthine \ter-2-bin(t)-than, "bin-thin imbeblinthine \ter-2-bin(t)-than imbeblinthine \ter

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condation of turpentine and is used chiefl
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tergiver-se-tion \tar-jiv-or-'sā-shon, -giv

2: to use subterfuges. Post-resident place in the place is a superfuger. Post-resident place is a superfuger in the place is a super with respect to or in relation to <thinks

downward and adorned with a head or up;

with respect to or in relation to <thinks
money>
sterm w: to apply a term to: CALL. NAt
ter.ma.gant \tar.ma-gant\n [ME] 1 cc
deity represented in early English drama:
2: an overbearing or nagging woman:
stermagant adj: overbearing woman:
termen \tar.mar\n: a person serving for
a political office or in prison) https://discovering.org/line-le-n-bal-hadj [ME. If: OF terminer, fr. L terminare]: capably
ter.mi-na-ble.n-ess n — ter.mi-na-bly
ter.mi-na-ble.n-ess n — ter.mi-na-bly
ter.mi-nal \tarm-nal. -an.-\tar.mar\adj [L term
of or relating to an end. extremity, bour
pillar> b: growing at the end of a bra
2 a: of, relating to, or occurring in a
payments> b: occurring at or constituti
series: CONCLUDING < the ~ moments of
as preparation for further academic work
see LAST ant initial — ter.mi-nal-ly \c2
terminal n 1: a part that forms the er
IION 2: a terminating usu. ornament:
device attached to the end of a wire or
apparatus for convenience in making cont
of a carrier line (as a railroad, trucking o
with classifying yards, dock and lightera
offices, storage sheds, and freight and [
freight or passenger station that is centra
serves as a junction at any point with oth
at the end of a carrier line: IERMINUS. 5
writer) through which a user can comm
terminal leave n: a final leave consistii
leave granted to a member of the arme
separation or discharge from service
'ter.mi-nate \ta-m--nate \ta-m--nate \ta-nate \ta-nate \ta-nate \taterminal leave n: a final leave consistii
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